

**U.S. District Court
District of Connecticut (New Haven)
CIVIL DOCKET FOR CASE #: 3:17-cv-01660-AWT**

Vietnam Veterans of America et al v. Defense
Assigned to: Judge Alvin W. Thompson
Cause: 05:552 Freedom of Information Act

Date Filed: 10/03/2017
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Vietnam Veterans of America

represented by **Michael J. Wishnie**
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Plaintiff

**Connecticut State Council of Vietnam
Veterans of America**

represented by **Michael J. Wishnie**
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Renee A. Burbank
(See above for address)
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Plaintiff

Anthony D. Maloni

represented by **Michael J. Wishnie**
(See above for address)
LEAD ATTORNEY
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Renee A. Burbank
(See above for address)
ATTORNEY TO BE NOTICED

V.

Defendant

Department of Defense

represented by **Natalie Nicole Elicker**
U. S. Attorney's Office-CT
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24th Floor
New Haven, CT 06519
203-821-3700
Fax: 203-773-5373

| Date Filed | # | Docket Text |
|------------|-----------|---|
| 10/03/2017 | <u>1</u> | COMPLAINT against All Defendants (Filing fee \$400 receipt number 0205-4554546.), filed by Vietnam Veterans of America, Anthony Maloni, Vietnam Veterans of America Connecticut State Council. (Attachments: # <u>1</u> Exhibit A-H)(Wishnie, Michael) (Entered: 10/03/2017) |
| 10/03/2017 | | Judge Alvin W. Thompson added. (Anastasio, F.) (Entered: 10/03/2017) |
| 10/03/2017 | <u>2</u> | ENTERED IN ERROR – Order on Pretrial Deadlines: Motions to Dismiss due on 01/03/2018. Amended Pleadings due by 12/2/2017 Discovery due by 4/4/2018 Dispositive Motions due by 5/4/2018 Signed by Clerk on 10/3/2017.(Enderlin, M.) Modified to edit docket text on 10/4/2017 (Enderlin, M.). (Entered: 10/03/2017) |
| 10/03/2017 | <u>3</u> | ELECTRONIC FILING ORDER – PLEASE ENSURE COMPLIANCE WITH COURTESY COPY REQUIREMENTS IN THIS ORDER Signed by Judge Alvin W. Thompson on 10/3/2017.(Enderlin, M.) (Entered: 10/03/2017) |
| 10/03/2017 | <u>4</u> | STANDING PROTECTIVE ORDER Signed by Judge Alvin W. Thompson on 10/3/2017.(Enderlin, M.) (Entered: 10/03/2017) |
| 10/03/2017 | <u>5</u> | NOTICE TO COUNSEL: Counsel initiating or removing this action are responsible for serving all parties with attached documents and copies of <u>4</u> Protective Order, <u>1</u> Complaint, filed by Vietnam Veterans of America, Anthony D. Maloni, Connecticut State Council of Vietnam Veterans of America, <u>3</u> Electronic Filing Order, <u>2</u> Order on Pretrial Deadlines Signed by Clerk on 10/3/2017.(Enderlin, M.) (Entered: 10/03/2017) |
| 10/04/2017 | | Docket Entry Correction re <u>2</u> Order on Pretrial Deadlines, Entered in Error. (Enderlin, M.) (Entered: 10/04/2017) |
| 10/04/2017 | <u>6</u> | AMENDED NOTICE TO COUNSEL: Counsel initiating or removing this action are responsible for serving all parties with attached documents and copies of <u>4</u> Protective Order, <u>1</u> Complaint, filed by Vietnam Veterans of America, Anthony D. Maloni, Connecticut State Council of Vietnam Veterans of America, <u>3</u> Electronic Filing Order Signed by Clerk on 10/4/2017.(Enderlin, M.) (Entered: 10/04/2017) |
| 10/05/2017 | | Request for Clerk to issue summons as to Department of Defense. (Wishnie, Michael) (Entered: 10/05/2017) |
| 10/06/2017 | <u>7</u> | ELECTRONIC SUMMONS ISSUED in accordance with Fed. R. Civ. P. 4 and LR 4 as to *Department of Defense* with answer to complaint due within *30* days. Attorney *Michael J. Wishnie* *Jerome N. Frank Legal Services – Wall St. / Yale Law School* *127 Wall Street* *New Haven, CT 06511*. (Enderlin, M.) (Entered: 10/06/2017) |
| 10/16/2017 | <u>8</u> | CERTIFICATE OF SERVICE by Connecticut State Council of Vietnam Veterans of America, Anthony D. Maloni, Vietnam Veterans of America (Wishnie, Michael) (Entered: 10/16/2017) |
| 11/09/2017 | <u>9</u> | NOTICE of Appearance by Natalie Nicole Elicker on behalf of Department of Defense (Elicker, Natalie) (Entered: 11/09/2017) |
| 11/09/2017 | <u>10</u> | MOTION for Extension of Time to Respond to <u>1</u> Complaint, by Department of Defense. (Elicker, Natalie) (Entered: 11/09/2017) |
| 11/10/2017 | <u>11</u> | RESPONSE re <u>10</u> MOTION for Extension of Time to Respond to <u>1</u> Complaint, filed by Connecticut State Council of Vietnam Veterans of America, Anthony D. Maloni, Vietnam Veterans of America. (Wishnie, Michael) (Entered: 11/10/2017) |
| 11/14/2017 | <u>12</u> | ORDER: The government's Motion for Extension of Time (Doc No. <u>10</u>) to respond to the Complaint (Doc. No. <u>1</u>) is hereby GRANTED up to and including 12/12/2017. It |

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| | | is so ordered. Signed by Judge Alvin W. Thompson on 11/14/2017. (Cole–Chu, H.) (Entered: 11/14/2017) |
| 11/14/2017 | | Answer deadline updated for Department of Defense to 12/12/2017. (Ferguson, L.) (Entered: 11/15/2017) |
| 12/04/2017 | <u>13</u> | MOTION for Leave to Appear Law Student Interns <i>Jacob Bennett, Meghan Brooks, John Frawley</i> Attorney Michael J. Wishnie, by Connecticut State Council of Vietnam Veterans of America, Anthony D. Maloni, Vietnam Veterans of America. (Wishnie, Michael) (Entered: 12/04/2017) |
| 12/08/2017 | <u>14</u> | ORDER: The motion requesting leave for Jacob Bennett, Meghan Brooks and John Frawley to appear on behalf of the plaintiffs as Law Student Interns pursuant to Local Rule 83.9 (Doc. No. <u>13</u>) is hereby GRANTED. The Clerk shall enter the appearances of Jacob Bennett, Meghan Brooks and John Frawley as Law Student Interns on behalf of the plaintiffs. It is so ordered. Signed by Judge Alvin W. Thompson on 12/08/2017. (Cole–Chu, H.) (Entered: 12/08/2017) |
| 12/08/2017 | <u>15</u> | ANSWER to <u>1</u> Complaint, with Affirmative Defenses by Department of Defense.(Elicker, Natalie) (Entered: 12/08/2017) |
| 12/11/2017 | <u>16</u> | ORDER MODIFYING DOCKET ENTRY #14: The motion requesting leave for Jacob Bennett, Meghan Brooks and John Frawley to appear on behalf of the plaintiffs as Law Student Interns pursuant to Local Rule 83.9 (Doc. No. <u>13</u>) is hereby GRANTED. The Law Student Interns' names, however, will not appear on the docket. It is so ordered. Signed by Judge Alvin W. Thompson on 12/11/2017. (Cole–Chu, H.) (Entered: 12/11/2017) |
| 03/08/2018 | <u>17</u> | Joint MOTION for Proposed Scheduling Order by Connecticut State Council of Vietnam Veterans of America, Anthony D. Maloni, Vietnam Veterans of America. (Attachments: # <u>1</u> Text of Proposed Order)(Wishnie, Michael) (Entered: 03/08/2018) |
| 03/14/2018 | <u>18</u> | ORDER: As set forth in the attached Order, the parties' Motion for Entry of Scheduling Order (Doc. No. <u>17</u>) is granted. Dispositive motions by the defendant, if any, are due by November 1, 2018, and dispositive motions by the plaintiffs, if any, are due by November 30, 2018. Signed by Judge Alvin W. Thompson on 03/14/2018. (Cole–Chu, H.) (Entered: 03/14/2018) |
| 03/14/2018 | | Set Deadlines: Defendant's Dispositive Motions due by 11/1/2018; Plaintiff's Dispositive Motions due by 11/30/2018. (Ferguson, L.) (Entered: 03/30/2018) |
| 06/07/2018 | <u>19</u> | Joint MOTION for Extension of Time until 9/15/18 to complete production and to otherwise Modify the Scheduling Order by Department of Defense. (Elicker, Natalie) (Entered: 06/07/2018) |
| 06/12/2018 | <u>20</u> | ORDER: The Joint Motion to Modify the Scheduling Order (Doc. No. <u>19</u>) is hereby GRANTED. Dispositive motions by the defendant, if any, are due by 11/21/2018 and dispositive motions by the plaintiff, if any, are due by 12/21/2018. All other proposed deadlines in the motion are approved. It is so ordered. Signed by Judge Alvin W. Thompson on 06/12/2018. (Cole–Chu, H.) (Entered: 06/12/2018) |
| 09/17/2018 | <u>21</u> | Consent MOTION for Extension of Time until 10/15/2018 to Complete Production, and for Partial Modification of the Scheduling Order as Stated by Department of Defense. (Elicker, Natalie) (Entered: 09/17/2018) |
| 09/21/2018 | <u>22</u> | ORDER: Defendant's Motion for Extension of Time and Partial Modification of the Scheduling Order (Doc. No. <u>21</u>) is hereby GRANTED. It is so ordered. Signed by Judge Alvin W. Thompson on 09/21/18. (Patel, Ranit) (Entered: 09/21/2018) |
| 10/15/2018 | <u>23</u> | Consent MOTION for Extension of Time until 12/14/2018 for the Production Deadline, and for Modification of the Scheduling Order by Department of Defense. (Elicker, Natalie) (Entered: 10/15/2018) |
| 10/17/2018 | <u>24</u> | ORDER: Defendant's Motion for Extension of Time and Modification of the Scheduling Order (Doc. No. <u>23</u>) is hereby GRANTED. All discovery shall be completed by 12/21/2018. Dispositive motions shall be filed by 4/4/2019. All other dates requested in this motion are also approved. It is so ordered. Signed by Judge Alvin W. Thompson on 10/17/18. (Patel, Ranit) (Entered: 10/17/2018) |

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| 10/17/2018 | | Set Deadlines: Discovery due by 12/21/2018. Dispositive Motions due by 4/4/2019. (Ferguson, L.) (Entered: 10/18/2018) |
| 12/11/2018 | <u>25</u> | Consent MOTION for Extension of Time until 2/12/2019 for the Production Deadline, and for Modification of the Scheduling Order by Department of Defense. (Elicker, Natalie) (Entered: 12/11/2018) |
| 12/13/2018 | 26 | ORDER: Defendant's Motion for Extension of Time and Modification of the Scheduling Order (ECF No. <u>25</u>) is hereby GRANTED. All discovery shall be completed by 2/19/2019. Dispositive motions shall be filed by 6/3/2019. All other dates requested in this motion are also approved. It is so ordered. Signed by Judge Alvin W. Thompson on 12/13/2018. (Patel, R.) (Entered: 12/13/2018) |
| 12/13/2018 | | Set Deadlines: Discovery due by 2/19/2019. Dispositive Motions due by 6/3/2019. (Ferguson, L.) (Entered: 12/14/2018) |
| 02/12/2019 | <u>27</u> | Third MOTION for Extension of Time <i>for</i> production and for modification of the scheduling order by Department of Defense. (Elicker, Natalie) (Entered: 02/12/2019) |
| 02/12/2019 | <u>28</u> | MOTION for Leave to Appear Attorney Renee Burbank. by Connecticut State Council of Vietnam Veterans of America, Anthony D. Maloni, Vietnam Veterans of America. (Burbank, Renee) (Entered: 02/12/2019) |
| 02/13/2019 | 29 | ORDER: Defendant's Motion for Extension of Time and Modification of the Scheduling Order (ECF No. <u>27</u>) is hereby GRANTED. All discovery shall be completed by 5/20/2019. Dispositive motions shall be filed by 7/21/2019. All other dates requested in this motion are also approved. It is so ordered. Signed by Judge Alvin W. Thompson on 2/13/2019. (Patel, R.) (Entered: 02/13/2019) |
| 02/13/2019 | | Set Deadlines: Discovery due by 5/20/2019. Dispositive Motions due by 7/21/2019. (Ferguson, L.) (Entered: 02/21/2019) |
| 03/08/2019 | <u>30</u> | MOTION for Summary Judgment (<i>Partial</i>) by Connecticut State Council of Vietnam Veterans of America, Anthony D. Maloni, Vietnam Veterans of America. Responses due by 3/29/2019 (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Material Facts, # <u>3</u> Exhibit 1, # <u>4</u> Exhibit 1-A, # <u>5</u> Exhibit 1-B, # <u>6</u> Exhibit 1-C.1, # <u>7</u> Exhibit 1-C.2, # <u>8</u> Exhibit 1-C.3, # <u>9</u> Exhibit 1-D, # <u>10</u> Exhibit 1-E, # <u>11</u> Exhibit 2)(Burbank, Renee) (Entered: 03/08/2019) |
| 03/26/2019 | <u>31</u> | Consent MOTION for Extension of Time to File Response/Reply as to <u>30</u> MOTION for Summary Judgment (<i>Partial</i>) until 4/5/2019 by Department of Defense. (Elicker, Natalie) (Entered: 03/26/2019) |
| 04/02/2019 | 32 | ORDER: Defendant's Motion for Extension of Time (ECF No. <u>31</u>) is hereby GRANTED up to and including 4/5/2019. It is so ordered. Signed by Judge Alvin W. Thompson on 4/2/2019. (Patel, R.) (Entered: 04/02/2019) |
| 04/02/2019 | | Set/Reset Deadlines as to <u>30</u> MOTION for Summary Judgment (<i>Partial</i>). Responses due by 4/5/2019. (Ferguson, L.) (Entered: 04/03/2019) |
| 04/05/2019 | <u>33</u> | Cross MOTION for Summary Judgment (<i>Partial</i>) by Department of Defense. Responses due by 4/26/2019 (Attachments: # <u>1</u> Memorandum in Support of Cross Motion for Partial Summary Judgment, and in Opposition to Plaintiffs' Motion for Partial Summary Judgment, # <u>2</u> Statement of Material Facts Local Rule 56(a)2 and 56(a)1 Statements, # <u>3</u> Table of Contents to Exhibits, # <u>4</u> Exhibit Pellett Declaration)(Elicker, Natalie) (Entered: 04/05/2019) |
| 04/19/2019 | <u>34</u> | Consent MOTION for Extension of Time to File Response/Reply as to <u>30</u> MOTION for Summary Judgment (<i>Partial</i>), <u>33</u> Cross MOTION for Summary Judgment (<i>Partial</i>) until May 10, 2019 by Connecticut State Council of Vietnam Veterans of America, Anthony D. Maloni, Vietnam Veterans of America. (Burbank, Renee) (Entered: 04/19/2019) |
| 04/22/2019 | 35 | ORDER: Consent MOTION for Extension of Time until May 10, 2019 to File Response/Reply (ECF No. <u>34</u>) as to Partial MOTION for Summary Judgment (ECF No. <u>30</u>) and Cross MOTION for Summary Judgment (ECF No. <u>33</u>) is hereby GRANTED. It is so ordered. Responses due by 5/10/2019. Signed by Judge Alvin W. Thompson on 4/22/19. (Ferguson, L.) (Entered: 04/23/2019) |

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| 05/10/2019 | <u>36</u> | Fourth MOTION for Extension of Time until 8/11/2019 <i>for production deadline, and for modification of the scheduling order</i> by Department of Defense. (Elicker, Natalie) (Entered: 05/10/2019) |
| 05/10/2019 | <u>37</u> | REPLY to Response to <u>30</u> MOTION for Summary Judgment (<i>Partial</i>), <u>33</u> Cross MOTION for Summary Judgment (<i>Partial</i>) (<i>Response</i>) filed by Connecticut State Council of Vietnam Veterans of America, Anthony D. Maloni, Vietnam Veterans of America. (Attachments: # <u>1</u> Supplement Attachment A, # <u>2</u> Statement of Material Facts)(Burbank, Renee) (Entered: 05/10/2019) |
| 05/23/2019 | <u>38</u> | Consent MOTION for Extension of Time to File Response/Reply as to <u>33</u> Cross MOTION for Summary Judgment (<i>Partial</i>) until 05/31/2019 by Department of Defense. (Elicker, Natalie) (Entered: 05/23/2019) |
| 05/24/2019 | <u>39</u> | ORDER: Defendant's Motion for Extension of Time (ECF No. <u>38</u>) is hereby GRANTED up to and including 5/31/2019. It is so ordered. Signed by Judge Alvin W. Thompson on 5/24/2019. (Patel, R.) (Entered: 05/24/2019) |
| 05/24/2019 | | Set/Reset Deadlines as to <u>33</u> Cross MOTION for Summary Judgment (<i>Partial</i>). Responses due by 5/31/2019. (Ferguson, L.) (Entered: 05/28/2019) |
| 05/29/2019 | <u>40</u> | ORDER: Defendant's Motion for Extension of Time and Modification of the Scheduling Order (ECF no. <u>36</u>) is hereby GRANTED. The deadlines are extended as follows: Defendant shall complete production of responsive, non-exempt records, including documents recently under review by the Air Force by 8/11/2019; defendant shall produce all search declarations and Vaughn indices by 8/18/2019; plaintiff will identify what is not consented by 9/8/2019; defendant shall file its motion for summary judgment by 9/28/2019; plaintiff shall file its cross-motion for summary judgment by 10/19/2019; defendant shall file its reply in support of its motion for summary judgment by 10/16/2019; and plaintiff shall file its reply in support of its motion for summary judgment by 11/30/2019. It is so ordered. Signed by Judge Alvin W. Thompson on 5/29/2019. (Patel, R.) (Entered: 05/29/2019) |
| 05/29/2019 | | Set Deadlines: Dispositive Motions due by 9/28/2019 (Ferguson, L.) (Entered: 05/30/2019) |
| 05/31/2019 | <u>41</u> | MOTION for Leave to File <i>Supplemental Declarations</i> by Department of Defense. (Elicker, Natalie) (Entered: 05/31/2019) |
| 05/31/2019 | <u>42</u> | REPLY to Response to <u>33</u> Cross MOTION for Summary Judgment (<i>Partial</i>) filed by Department of Defense. (Attachments: # <u>1</u> Exhibit 2 – J. Pellett Second Decl., # <u>2</u> Exhibit 3 – B. Trinh Decl.)(Elicker, Natalie) (Entered: 05/31/2019) |
| 06/01/2019 | <u>43</u> | MOTION to Amend/Correct <u>42</u> Reply to Response to Motion by Department of Defense.Responses due by 6/22/2019 (Attachments: # <u>1</u> Corrected Ex. 1 to Def. Ex. 2, J. Pellett Decl. May 31, 2019 (doc. #42-1, page 4 of 14), # <u>2</u> Corrected Def. Ex. 3, B. Trinh Decl., May 31, 2019 (doc. #42-2))(Elicker, Natalie) (Entered: 06/01/2019) |
| 06/03/2019 | <u>44</u> | ORDER: Motion to Amend/Correct Reply to Response to Motion (ECF No. <u>43</u>) is hereby GRANTED. It is so ordered. Signed by Judge Alvin W. Thompson on 6/3/19. (Ferguson, L.) (Entered: 06/04/2019) |
| 06/03/2019 | <u>45</u> | ORDER: Motion for Leave to File Supplemental Declarations (ECF No. <u>41</u>) is hereby GRANTED. It is so ordered. Signed by Judge Alvin W. Thompson on 6/3/19. (Ferguson, L.) (Entered: 06/04/2019) |
| 06/13/2019 | <u>46</u> | MOTION for Leave to File <i>Sur-Reply</i> by Connecticut State Council of Vietnam Veterans of America, Anthony D. Maloni, Vietnam Veterans of America. (Attachments: # <u>1</u> Sur-Reply)(Burbank, Renee) (Entered: 06/13/2019) |
| 06/21/2019 | <u>47</u> | ORDER: Plaintiff's Motion for Leave to File <i>Sur-Reply</i> (ECF No. <u>46</u>) is hereby GRANTED. It is so ordered. Signed by Judge Alvin W. Thompson on 6/21/2019. (Patel, R.) (Entered: 06/21/2019) |